

NOT FOR CITATION
IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

John Westfall,

NO. C 02-02472 JW

Plaintiff(s),

v.

State of California, et al.,

Defendant(s).

**ORDER TO SHOW CAUSE WHY ANSWER
SHOULD NOT BE STRICKEN AND
DEFAULT ENTERED FOR FAILURE TO
TENDER SETTLEMENT PAYMENT TO
PLAINTIFF**

This action has been pending since May of 2002. In May of 2004, the parties reported that the case had settled. The Court has yet to receive the customary stipulated dismissal, however. The latest status report filed by Plaintiff's counsel on August 2, 2005, indicates that she is still awaiting a settlement check.

Based upon the status report, the Court orders Defendants to show cause, in writing, why the answer should not be stricken and default entered as a sanction for failure to tender the settlement payment. Defendants shall file and serve the response to this Order no later than October 17, 2005.

Thereafter, the parties shall appear for a hearing on October 31, 2005 at 9:00 a.m. If the parties file a stipulated dismissal prior to the hearing date, the hearing will be automatically vacated.

Dated: September 30, 2005

/s/James Ware
JAMES WARE
United States District Judge

1 **THIS IS TO CERTIFY THAT COPIES OF THIS ORDER HAVE BEEN DELIVERED TO:**

2 Fiel D. Tigno fiel.tigno@doj.ca.gov

3 Mary-Margaret O'Connell mmoc@pacbell.net

4 William J. McMahon william.mcmahon@doj.ca.gov

5 **Dated: September 30, 2005**

Richard W. Wieking, Clerk

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7 **By: /s/JW Chambers**

Ronald L. Davis

Courtroom Deputy